

2006 JUN 29 PM 3:50
CLERK OF COURT
CLEVELAND

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

----- X
IN RE: Letter Rogatory from National)
Magistrates' Court in Criminal Matters) Case No. 1:03CR331
No. 45, Federal Capital, Argentine)
Republic for Assistance in the) UNDER SEAL
Criminal Matter No. 13/05 (0),)
entitled DEISERNIA RICARDO GUILLERMO)
about INFRINGEMENT LAW 22.415)
----- X

PETITION FOR DISCLOSURE ORDER
PURSUANT TO THE TREATY WITH ARGENTINA ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS ENTERED INTO FORCE FEBRUARY 9, 1993
AND
Federal Rules of Criminal Procedure 6(e)(3)(E)(iii)

The United States of America petitions this Court for an order pursuant to the Treaty with Argentina on Mutual Legal Assistance In Criminal Matters (hereinafter "the Treaty") and Rule 6(e)(3)(E)(iii), Federal Rules of Criminal Procedure, permitting disclosure to officials of Argentina of evidence obtained by a grand jury sitting in Cleveland, Ohio in the investigation of RICARDO DEISERNIA for the purpose of enforcing foreign criminal law. In support of this petition, the United States asserts the following:

EC/5

1. Dr. Juan Jose Cerdeira, Central Authority in Argentina, has submitted a request pursuant to the Treaty (hereinafter "the Request"), seeking production of evidence for use in a criminal matter. The National Magistrates' Court in Criminal Matters No. 45, Federal Capital, Argentine Republic is prosecuting RICARDO DEISERNIA for smuggling firearms. RICARDO DEISERNIA was charged in Argentina "as AUTHOR of a conduct presumptively criminal that is to be engaged in the business in firearms, ammunitions and/or material which by their particulars could affect public security, by means of business with other countries, specially the United States, introducing them in a false manner and evading customs and other agencies control, pursuant Customs Code, Sections 863, 864(d), and 867 (National Procedure Criminal Code, Section 306. and Criminal Code, Section 45)".

2. On December 1, 2005, the undersigned Assistant United States Attorney was assigned to assist the National Magistrates' Court in Criminal Matters No. 45, Federal Capital, Argentine Republic, and to take such steps as are necessary to execute the Request.

3. A list identifying the responsive evidence is appended as Attachment A. The grand jury investigation concluded on August 12, 2003 when the grand jury returned a seven count secret indictment against RICARDO DEISERNIA.

4. The Assistant United States Attorney may provide the grand jury material responsive to the Request to foreign officials if authorized to do so by a court pursuant to Rule 6(e)(3)(E), which provides that:

[t]he court may authorize disclosure - at a time, in a manner, and subject to any other conditions that it directs - of a grand-jury matter:

(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;

5. This Court may authorize disclosure of the responsive grand jury material because the Request meets the requirements of the Rule: it seeks assistance for an official criminal prosecution in Argentina and disclosure of the responsive grand jury material, by facilitating the successful disposition of that proceeding, would serve the purpose of enforcing Argentina's criminal laws.

6. In addition to meeting the requirements of the Rule:

- a. the Request discloses that the criminal conduct at issue is serious in that it involves the smuggling of firearms as described in paragraph 1 above.
- b. the evidence requested is otherwise unavailable or impossible to obtain in a meaningful or timely fashion, in that the evidence gathering has already been accomplished by the grand

jury during the United States investigation of RICARDO DEISERNIA.

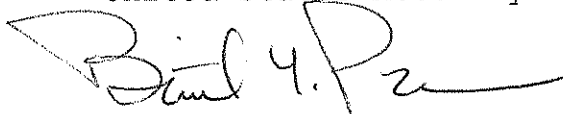
- c. the need for disclosure substantially outweighs any remaining interest in grand jury secrecy in this matter because of the seriousness of the crime and the fact that DEISERNIA is already in custody in Argentina. DEISERNIA is charged in the United States, generally, with violations involving smuggling and importing firearms into the United States without a license. The charges in Argentina, generally, charge DEISERNIA with being involved in the business of firearm sales to other countries, especially the United States, introducing them in a false manner and evading customs and other agencies control. The charges in Argentina are the export side of the violations involving the same criminal conduct for which he is charged in the United States. There is no ongoing grand jury investigation, as the grand jury returned a secret indictment August 12, 2003, and the sealed charges are currently outstanding against DEISERNIA in the United States.
- d. this petition for a disclosure order is intended to cover only the evidence responsive to the Request, that being the items described in Attachment A.

7. Disclosure comports with a strong U.S. policy interest in providing assistance to promote prosecution worldwide of criminal activity, such as that described in the Request, and to strengthen international law enforcement cooperation.

Accordingly, the United States asks this Court to authorize disclosure pursuant to the Treaty and Rule 6(e)(3)(E)(iii), Fed. R. Crim. P., of the grand jury material listed at Attachment A to the National Magistrates' Court in Criminal Matters No. 45, Federal Capital, Argentine Republic and officials of Argentina for use in the prosecution of the above-described criminal matter and for no other purpose.

The United States further requests that this motion and the order be filed under seal.

Respectfully submitted,
GREGORY A. WHITE
United States Attorney

A handwritten signature in dark ink, appearing to read "Benita Y. Pearson", is written over a horizontal line.

Benita Y. Pearson
Assistant U.S. Attorney
Reg. No. 0065709
United States Court House
801 W. Superior Avenue, #400
Cleveland, Ohio 44113
Telephone No. (216) 622-3919
Fax No. (216) 522-7358
Benita.Pearson@usdoj.gov